

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING  
PHARMACY, INC. PRODUCTS  
LIABILITY LITIGATION

MDL No. 2419  
Dkt. No. 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:

All Actions

**THE PLAINTIFFS' STEERING COMMITTEE'S PROPOSED AGENDA  
FOR THE APRIL 20, 2017 STATUS CONFERENCE**

The Plaintiffs' Steering Committee ("PSC") proposes the following agenda for the April 20, 2017, status conference (2:00 p.m.). The remaining defendants and the plaintiffs' groups identified below have been given an opportunity to comment on this proposed agenda.

**A. REPORT TO THE COURT**

1. Status of payments from Tort Trust
  - a. Status report and update to be provided at June 1, 2017 status conference
2. Status of Specialty Surgery cases

*13 cases; Benjamin A. Gastel; Chris Tardio*

  - a. Update on mediation
  - b. Order Granting in Part Specialty Surgery's Motion for Bill of Costs [Dkts. 3361, 3362]
  - c. Order Modifying Specialty Surgery Case Management Deadlines [Dkt. 3359]
  - d. Matters Fully Briefed and Awaiting Court Decision
    1. PSC Motion for Judgment on the Pleadings Regarding Comparative Fault Defenses Attributing Fault to Governmental Entities [Dkts. 3249, 3250] (fully briefed)
      - i. Specialty Surgery Opposition [Dkt. 3278]

- ii. Calisher & Associates Joinder [Dkt. 3279]
- iii. PSC Reply [Dkt. 3288]

3. PSC Motion for Consolidation of Two Bellwether Trials [Dkts. 3331, 3332]

- i. Specialty Surgery Opposition [Dkt. 3340]

e. Appeals

*Ben Gastel (PSC); Chris Cain (Plaintiffs Norris and Palmer); Chris Tardio (Defendants)*

- 1. *Norris v. Specialty Surgery* (17-1003)
- 2. *Palmer v. Specialty Surgery* (17-1005)
- 3. Orders granting Specialty Surgery Motion to Correct the Appellate Record (13-cv-12688 [Dkt. 47]); (13-cv-12682 [Dkt. 46])
- 4. Mandatory settlement conference stayed pending Specialty Surgery mediation

3. Status of Box Hill cases

*8 cases: Patti Kasputys & Michael Coren (Plaintiffs); Greg Kirby (Defendants)*

- a. Report from the parties regarding potential mediation
- b. Box Hill motion to vacate or modify April 7, 2017 Order (Dkt. 3357) setting discovery deadlines for bellwether-specific cases [Dkt. 3370]
- c. Box Hill motion for reconsideration of suggestion of remand following common issue discovery (Dkts. 3056 and 3056-1). (forthcoming)
- d. Order Setting Discovery for Bellwether-Specific Box Hill Cases [Dkt. 3357]
  - 1. Bellwether Trial Living Cases
    - i. *Dreisch v. Box Hill*, 14-cv-14029
    - ii. *Davis v. Box Hill*, 14-cv-14033

2. Bellwether Trial Death Cases
  - i. *Armetta v. Box Hill*, 14-cv-14022
  - ii. *Handy v. Box Hill*, 14-cv-14019
- e. October 30, 2017 – Bellwether trial for first living case

4. Status of directly-filed cases:<sup>1</sup>

- a. Janet Jenner and Suggs cases

*Justin Browne (Plaintiffs); Tony Abeln (APAC); Clare Carroll (MAPS)*

  - i. Plaintiffs' counsel filed motions to withdraw in the cases against APAC (*Kennedy* and *Musselwhite*) and Premier (*Overstreet*) [Dkts. 1:13-cv-13227; 1:14-cv-13689; 1:13-cv-13228; 1:14-cv-13676; and 1:14-cv-13760].
    - A. Plaintiffs Kennedy and Musselwhite have located new counsel. The cases should be sent to Illinois where new counsel will litigate them.
    - B. Plaintiff Overstreet dismissed his case on April 5, 2017 at Dkt. 27, 14-cv-13760.

5. Status of St. Thomas settlement

*Benjamin A. Gastel; Chris Tardio & Yvonne Puig*

**B. FUTURE STATUS CONFERENCES**

1. June 1, 2017, 2:00 p.m.

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<sup>1</sup> All directly filed cases are listed in Notice by the PSC of Cases Filed Directly in the District of Massachusetts [Dkt. 3065].

**C. CASE MANAGEMENT SCHEDULES****SPECIALTY SURGERY [Dkt. 3359]**

<b>Specialty Surgery Common Discovery Schedule</b>	
Close of Common Issue Fact Discovery	August 1, 2017
Plaintiffs' Common Issue Expert Reports Due	September 1, 2017
Defendants' Common Issue Expert Reports Due	October 1, 2017
Completion of Common Issue Expert Depositions	December 1, 2017

<b>Specialty Surgery Case-Specific Discovery Schedule</b>	
Completion of Individual Fact Discovery	October 1, 2017
Plaintiffs' Case Specific Expert Disclosures	October 15, 2017
Defendants' Case Specific Expert Disclosures	November 15, 2017
Position on First Case to be tried	November 30, 2017
Completion of Case Specific Expert Depositions	December 15, 2017

**BOX HILL [Dkt. 3301]**

<b>Box Hill Case Management Schedule</b>	
Completion of Common Issue Expert Depositions	March 17, 2017
Each side to select 2 potential bellwether trial death cases and 2 potential bellwether trial living cases and case specific discovery will begin for those cases	March 17, 2017
Close of Case Specific Fact Discovery	June 1, 2017
Each party to strike one case from each category of proposed bellwether cases (one death and one living case)	June 9, 2017
Joint Filing of Summary of Remaining Cases	June 23, 2017
Plaintiffs' Case Specific Expert Reports Due	July 14, 2017
Defendants' Case Specific Expert Reports Due	August 14, 2017
Completion of Case Specific Expert Depositions	September 22, 2017
First Bellwether Trial for Living Case [Dkt. 3357]	October 30, 2017

Dated: April 19, 2017

Respectfully submitted,

/s/ Kristen A. Johnson

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*Plaintiffs' Lead Counsel on behalf of the  
Plaintiffs' Steering Committee*

**CERTIFICATE OF SERVICE**

I, Kristen A. Johnson, hereby certify that I caused a copy of the foregoing to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: April 19, 2017

**/s/ Kristen A. Johnson**  
Kristen A. Johnson (BBO# 667261)